



DEPARTMENT OF EDUCATION

34 CFR Chapter II

[Docket ID ED-2022-OESE-0094]

Final Priorities, Requirements, and Definitions—Mental
Health Service Professional Demonstration Grant Program

AGENCY: Office of Elementary and Secondary Education,
Department of Education.

ACTION: Final priorities, requirements, and definitions.

SUMMARY: The Department of Education (Department)
announces final priorities, requirements, and definitions
under the Mental Health Service Professional Demonstration
Grant Program (MHSP), Assistance Listing Number
84.184X. We may use one or more of these priorities,
requirements, and definitions for competitions in fiscal
year (FY) 2022 and later years. These final priorities,
requirements, and definitions are designed to allow the
Department to provide competitive grants to support and
demonstrate innovative partnerships between one or more
high need local educational agencies (LEAs) (as defined in
this notice,) or a State educational agency (SEA) on behalf
of one or more high-need LEAs, and an eligible Institution
of Higher Education (eligible IHEs) (as defined in this
notice) to train school-based mental health services
providers (services providers) for employment in schools
and local educational agencies (LEAs). The goal of the

program is to increase the number and diversity of high-quality, trained providers available to address the shortages of mental health services professionals in schools served by high-need LEAs.

DATES: These priorities, requirements, and definitions are effective [INSERT DATE 30 DAYS AFTER DATE OF PUBLICATION IN THE FEDERAL REGISTER].

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SUPPLEMENTARY INFORMATION:

Executive Summary:

Purpose of this Regulatory Action: As defined by the Centers for Disease Control and Prevention (CDC), "Mental health includes our emotional, psychological, and social well-being. It affects how we think, feel, and act. It also helps determine how we handle stress, relate to others, and make healthy choices. Mental health is important at every stage of life, from childhood and adolescence through adulthood."¹

¹ Centers for Disease Control and Prevention. www.cdc.gov/mentalhealth/learn/index.htm. Accessed on September 17, 2022.

Support for the mental health of children and youth advances educational opportunities by creating conditions where students can fully engage in learning. The Novel Coronavirus Disease 2019 (COVID-19) pandemic presented additional challenges to the well-being of children and youth. The disruption to routines, relationships, and the learning environment for many has led to increased stress and trauma, social isolation, and anxiety that can have both immediate and long-term adverse impacts on the physical, social, emotional, and academic well-being of children and youth.

These final priorities, requirements, and definitions aim to address these challenges by increasing the number of school-based mental health services providers in high-need LEAs, increasing the number of services providers from diverse backgrounds or from the communities they serve, and ensuring that all services providers are trained in inclusive practices, including supporting services providers in ensuring access to services for children and youth who are English learners.

Summary of the Major Provisions of this Regulatory Action: Through this regulatory action, we establish four priorities, program and application requirements, and definitions. You may find further details on these provisions in the Final Priorities, Final Requirements and Final Definitions sections of this notice.

Costs and Benefits: The final priorities, requirements, and definitions will impose minimal costs on entities that seek assistance through the MHSP program. Application submissions and participation in this program are voluntary. The Secretary believes that the costs imposed on applicants by the final priorities are limited to paperwork burden related to preparing an application for an MHSP grant competition that uses one or more of the final priorities. Because the costs of carrying out activities will be paid for with program funds, the costs of implementation will not be a burden for any eligible applicants, including small entities. We believe that the benefits of this regulatory action outweigh any associated costs because it will result in the submission of a greater number of high-quality discretionary grant applications likely to result in the achievement of program objectives.

Purpose of Program: The MHSP program provides competitive grants to support and demonstrate innovative partnerships to train school-based mental health services providers (as defined in section 4102 of the Elementary and Secondary Education Act of 1965, as amended (ESEA)) for employment in schools and LEAs. The goal of this program is to increase the number and diversity of high-quality, trained providers to address the shortages of mental health services professionals in schools served by high-need LEAs. The partnerships must include (1) one or more high-need LEAs or

a State educational agency (SEA) on behalf of one or more high-need LEAs and (2) one or more eligible IHEs. Partnerships must provide opportunities to place postsecondary education graduate students in school-based mental health fields into high-need schools served by the participating high-need LEAs to complete required field work, credit hours, internships, or related training necessary to complete their degree or obtain a credential as a school-based mental health services provider. In addition to the placement of graduate students, grantees may also use these funds to develop mental health career pathways as early as secondary school, through career and technical education opportunities, or through paraprofessional support degree programs at local community or technical colleges.

Program Authority: 20 U.S.C. 7281.

We published a notice of proposed priorities, requirements, and definitions (NPP) in the *Federal Register* on August 2, 2022 (87 FR 47159). The NPP contained background information and our reasons for proposing the priorities, requirements, and definitions. As discussed in the Analysis of Comments and Changes section, we made substantive changes to Priorities 1-3, we added a fourth priority, and we made both substantive and editorial changes to the application requirements and definitions.

Public Comment: In response to our invitation in the NPP, 12 parties submitted comments that, in total, addressed all of the proposed priorities, requirements, and definitions. One comment was not relevant to the proposed priorities, requirements, or definitions and is not included in the discussions below. We do not address general comments that raise concerns not directly related to the proposed priorities, requirements, or definitions. Generally, we do not address technical and other minor changes, or suggested changes that the law does not authorize us to make under the applicable statutory authority. However, we made a change to clarify a technical error in the NPP where we used two different terms in two definitions that are intended to be linked. Specifically, we are replacing "low-income families" with "low-income backgrounds" in the definition of "high-need LEA." This change provides consistency with the use of the term "low-income backgrounds" in the definitions of "high-need school" and "students/children from low-income backgrounds."

Analysis of Comments and Changes: An analysis of the comments and of any changes in the proposed priorities, requirements, and definitions follows.

General Comments

Comment: Many commenters expressed general support for the program.

Discussion: We appreciate this support and the efforts commenters made to submit comments.

Changes: None.

Comment: Three commenters provided general comments. One commenter, a current grantee, described current grant work, asked for an extension to the grant period, and suggested informing applicants during the application process about the performance measures we would expect grantees to meet under the program. Another commenter asked if LEAs could apply for a grant under this program as well as under the School-Based Mental Health Services (SBMH) Grant Program. A third commenter asked that we allow grantees to use funds to support the expansion of a young adult peer recovery support workforce and to include peer support providers and recovery specialists.

Discussion: The Department appreciates hearing about current grantee successes. Extension requests should be discussed with the Federal project officer. Additionally, the Department will publish the performance measures for the MHSP program in the notice inviting applications for any competition.

LEAs may apply to both the MHSP and SBMH competitions so long as they are considered an "eligible applicant" and meet all requirements described in the application requirements, and the projects (e.g., activities and participants) are distinct from one another.

The Department agrees with the need for a variety of support services and the value of peer support providers. To the extent the young adult peer recovery support providers are postsecondary education graduate students in school-based mental health fields, the school-based mental health services partnership can place these individuals into high-need schools served by the participating high-need LEAs to complete required field work, credit hours, internships, or related training necessary to complete their degree or credential as a school-based mental health services provider.

Changes: None.

Priorities

Comment: There were several general comments of support for the priorities. In addition, one commenter asked if funds could be used to support tuition and other fees for students. Another commenter suggested adding evidence-based approaches related to trauma-informed care and learner-centered approaches. This same commenter suggested adding the ability to partner with nonprofit organizations. Three commenters suggested adding the following new priorities: a new priority to increase the capacity of current personnel through training focused on attending to mental health needs; prioritizing services to underserved students and students with disabilities; and requiring LEAs or SEAs to prioritize Historically Black Colleges and

Universities (HBCUs), Minority-Serving Institutions (MSIs), and Tribal Colleges and Universities (TCUs) when establishing partnerships.

Discussion: The Department appreciates the comment about support services. Support services including tuition, paid internships, transportation, childcare, and other costs necessary to carry out grant activities, such as background check fees, can be supported and are encouraged under these grants, especially to support individuals from low-income backgrounds who are pursuing careers as school-based mental health services providers.

We do not think it is necessary to prescribe specific practices, such as trauma-informed care and learner-centered approaches. We believe that applicants should propose the evidence-based strategies that they believe will best meet their training needs and accomplish the goals of their projects.

The Department does not believe it is necessary to add language specific to nonprofit organizations. Nonprofit organizations are included under community agencies, which are included in application requirement (e)(2).

In response to the suggestions for new priorities, the Department agrees that partnerships with HBCUs, MSIs, and TCUs would be beneficial to increasing credentialed services providers to serve in high-need LEAs and schools. We added a new priority for applicants that are either

HBCUs, MSIs, or TCUs, or for LEA applicants that propose a partnership with these institutions.

The Department does not think it is necessary to add a priority for services for underserved students and students with disabilities. This program focuses on increasing the number of credentialed school-based mental health services providers in high-need LEAs, which we believe already includes most underserved students given the indicators of poverty, small and rural schools, and student-to-provider ratios.

Additionally, while the Department agrees with the importance of increasing the skills of all personnel to better address mental health needs, the focus of this program is to increase the number of credentialed services providers, not to provide general training to all personnel.

Changes: We added a new priority for projects that will be implemented by or in partnership with HBCUs, MSIs, or TCUs to emphasize their role as valuable partners.

Comment: One commenter recommended changes to Priority 1 to better align the priority with the stated purpose of the grant and the terminology used by SEAs and IHEs. The commenter also suggested conforming edits to application requirements (c) and (d) and the definition of "eligible IHE."

Discussion: We agree with the recommended changes and added language to specify that graduate students must be in a school-based mental health services field. We also deleted the word "license" and revised the priority to specify that training, credit hours, field work, internships or related training must be in support of a degree or credential with the purpose of increasing the number of school-based mental health services providers.

Changes: We revised Priority 1 to specify that we are referring to school-based mental health services fields of study, to delete "license," and to require that the training must be in support of a degree or credential with the purpose of increasing the number of school-based mental health services providers. We also made conforming edits to application requirements (c) and (d), and the definition of "eligible IHE."

Comment: One commenter suggested clarifying in Priority 2 that diversity is more than racial and ethnic diversity.

Discussion: The Department agrees with the commenter; however, we believe applicants are best suited to determine what diversity is in the context of their proposed projects.

Changes: We revised Priority 2 to include a parenthetical that describes the different aspects of diversity that could be considered.

Comment: We received two comments on Priority 3. Both offered their support of the priority. One of the two also suggested adding the term “evidence-based” as a descriptor to “pedagogical practices” and adding a definition of “evidence-based.”

Discussion: The Department agrees that this change strengthens the priority and will support higher quality projects.

Changes: We revised Priority 3 and added reference to the definition of “evidence-based” in section 8101 of the ESEA.

Comments: One comment suggested adding to Proposed Priority 3 a requirement for IHEs to detail how the existing graduate preparation program(s) prepares graduates to provide inclusive practices in the school setting.

Discussion: We appreciate this comment and agree that this addition will clarify how applicants are expected to address the priority.

Changes: We revised Priority 3 to state that applicants must provide a description of how their preparation program will prepare services providers to provide inclusive practices and to create culturally and linguistically inclusive and identity-safe environments for students.

Application Requirements

Comment: Four commenters suggested adding new application requirements. One commenter suggested requiring a plan for periodic evaluation of effectiveness and improvement. A

second commenter suggested requiring applicants to describe how school leaders will be included in providing feedback on implementation. Two other commenters recommended requiring applicants to submit disaggregated data for providers and students to determine the impact of the program. One of the two commenters specifically suggested data on diversity (racial, ethnic, and LGBTQ+ identity and linguistic diversity) of existing providers and how it compares with students.

Discussion: The Department appreciates the commenters' desire to understand the performance of individual projects as well as the program overall. When inviting applications for this program, we will consider for each competition whether to add selection criteria that require applicants to describe their plan for project evaluation including performance feedback and periodic assessment of progress. In addition, the Department will work with successful applicants post-award to develop and implement effective evaluation plans. The Department agrees that including the feedback of school leaders could enhance implementation efforts; however, we believe applicants should propose feedback loops that best meet the structure of the project, which may include school leaders, if appropriate. The Department agrees with the importance of disaggregating data to determine the impact of the program on disparities in access to mental health services but we do not think an

application requirement is necessary. Rather, we encourage applicants to propose objectives that best represent the intended outcomes of the project (which may include data disaggregated by profession and student) for consideration by peer reviewers. Further, we are developing our evidence-building strategy, which will include considerations of equitable access to mental health services.

Changes: None.

Comment: One commenter requested the Department consider non-graduate pathways to increase school-based mental health services providers in the application requirements.

Discussion: Establishing non-graduate pathways is an allowable activity applicants can include in their applications. The Department encourages applicants to engage in activities such as grow your own programs that promote and recruit potential school-based mental health services providers into the profession as early as secondary school and support their interest and training to obtain a degree and State credential. However, the goal of the program is to train graduate students in school-based mental health services fields and to place them in high-need LEAs. Therefore, non-graduate pathways activities must be in support of, and in addition to, the training and placement of graduate students required to meet the priority.

Changes: None.

Comment: The Department received three comments on application requirement (b). All three commenters suggested requiring additional data to more fully convey the nature and magnitude of the program. One commenter suggested requiring applicants to disaggregate ratios by students based on race, gender, disability, and other identifiers, as well as requiring at least one additional data set such as LEA-level or school-level demographic data, school climate data, or descriptions of barriers to hiring and retaining services providers. The second commenter suggested requiring the perspectives of school leaders in describing the nature and magnitude of the problem. The final commenter recommended requiring applicants to report on substance use and misuse data.

Discussion: We appreciate these recommendations; however, we do not believe it is necessary to require applicants to disaggregate ratios or to include at least one of the other data sets listed in application requirement (b) as part of their application. Rather, we believe applicants, in addressing the application requirement and responding to the selection criteria, should include the data they think best describes the nature and magnitude of the problem, which may include the suggested data listed in requirement (b).

Changes: None.

Comment: Two commenters provided comments on application requirement (c). One commenter recommended adding a requirement to include school leaders in the plan for enhancing LEA capacity. The second commenter suggested including requirements for trauma-informed and whole learner practices.

Discussion: The Department agrees with the importance and value of including school leader perspectives, and we encourage applicants to incorporate their voices as appropriate. We believe it is stronger to embed this engagement in the requirement for a memorandum of understanding (MOU), memorandum of agreement (MOA), or letter of agreement, as reflected in application requirement (d).

The Department also appreciates the importance of training teachers in trauma-informed practices and strategies for supporting the whole learner. However, as stated previously, we encourage the applicant partnerships to determine what best meets their needs and we decline to prescribe specific approaches.

Changes: None.

Comment: Three commenters commented on application requirement (e). Two commenters suggested including additional collaboration partners. One of these commenters suggested nonprofit organizations and the other suggested the Department-funded Regional Education Laboratories (REL)

and the Comprehensive Centers (CC). The second commenter also suggested requiring collaboration with the RELs and CCs to evaluate the effectiveness of these grants. The third commenter suggested broadening (e)(1) given the small number of local professional organizations available for collaboration. Additionally, this commenter questioned whether it is appropriate for applicants focused on training services providers to also collaborate with local mental health and other community agencies and requested clarification of the kinds of collaboration with these entities that would meet the purpose of the grant.

Discussion: We appreciate these thoughtful comments.

Section (e)(2) already references community organizations, which includes nonprofit organizations; therefore, we are not proposing any changes in response to this comment. Additionally, applicants are encouraged to collaborate with the RELs and CCs as well as other Federally-funded technical assistance centers in accordance with the language in (e)(2) as appropriate, however, we do not see a need to require this specific collaboration over others.

The Department agrees with the suggestion to broaden the list of entities with which applicants can collaborate for the reasons stated by the commenter. We also think it is appropriate to make similar changes to section (e)(2) for the same reasons. However, we do not believe it is necessary to add language clarifying the kinds of

collaboration. For application requirement (e), applicants must propose any one of four activities listed and are not required to coordinate specifically with local mental health or other community agencies. However, we are encouraging more field-based, practical training in these grants which may include knowledge of, and work with, community agencies.

Changes: We broadened section (e)(1) to require that applicants coordinate with at least one national, State, or local professional organization. We also broadened (e)(2) to include national, State, or local.

Comment: Two commenters suggested clarifying who is involved in the process of identifying students for mental health services under application requirement (f). One of the two commenters suggested requiring the perspectives and needs of school leaders as well as the engagement of parents and families. The other commenter recommended ensuring that only qualified professionals identify students for mental health services. This same commenter recommended requiring applicants to describe their process for ensuring that identified students are not excluded from schools and classrooms and the recourse students and families have if they disagree with the identification for services.

One of the two commenters also expressed support for requiring applicants to describe how they will ensure services are evidence-based and inclusive.

Another commenter recommended including homelessness in the list of characteristics for inclusion.

Discussion: The Department agrees that it is important for school leaders as well as other educators to be involved in identifying students for mental health supports and that the professionals identifying students and determining support needs must be qualified. However, we note that all educators and staff should know the process for identifying students and be able to refer students who may need additional mental health supports to the appropriate professionals. School and LEA professionals, in consultation with families as appropriate, make determinations regarding the supports and services a student needs to fully participate in the learning environment. We also remind applicants that section 4001(a) of the ESEA applies to this program. Therefore, any entity receiving MHSP funds must obtain prior written, informed consent from the parent of any child who is under 18 years of age to participate in any mental health assessment or service funded under the program. We also appreciate the recommendation to include students experiencing homelessness in the list of characteristics

for inclusion and agree this is an important group of students to include.

Changes: We revised requirement (f) to clarify that identification for mental health services must be done by qualified personnel in consultation with educators, school leaders, parents, and families. We also added homelessness to the characteristics listed.

Definitions

Comment: One commenter asked the Department to consider providers of services for substance use and misuse as part of the mental health workforce. The same commenter recommended including a definition of "diverse backgrounds" to clarify the focus of our efforts in Priority 2.

Discussion: We appreciate the commenter's suggestions and agree that providers of services for substance use and misuse may be considered school-based mental health services providers to the extent they meet the definition in the ESEA.

Given the breadth of diversity that exists across LEAs nationwide, we decline the recommendation to add a definition for this term. Applicants may set diversity goals based on, for example, district or community demographics. We also added more detail to Priority 2 to demonstrate the range of diversity we anticipate being considered among applicants.

Changes: We revised Priority 2 to include additional detail about diverse backgrounds that reflect the communities, identities, races, ethnicities, abilities, and cultures of the students in the high-need LEAs, including underserved students

Comment: Two commenters offered considerations for the definition of "eligible IHEs." One of the two commenters recommended limiting the definition to Section 101 institutions under the Higher Education Act of 1965 (HEA). The other commenter supported the base definition but suggested changes to paragraphs (a) and (d). Specifically, in regard to school psychology, the commenter recommended referencing specific accrediting bodies and also suggested deleting the language about a State licensing or certification examination in school-based psychology noting that a specific exam in this field does not exist. Regarding paragraph (d), the commenter noted that the inclusion of school nurses goes against the Joint Explanatory Statement for the FY 2022 Appropriations Act which specifically stated that Congress does not intend for MHSP funds to include school nurses because their needs are addressed elsewhere in the Federal budget. The commenter also disagreed with the Department's proposal to consider behavioral health aides and clinical psychologists under contract with LEAs to be "another school-based mental health field" stating that there are no graduate programs

of study to become a behavioral health aide and that clinical psychology alone is not sufficient to qualify someone as a school-based mental health services provider.

Discussion: Regarding the comment on "limiting the definition to Section 101 institutions," "eligible IHEs" are those institutions that meet the requirements of Section 101(a) of the HEA - that is, educational institutions that are public or private, nonprofit institutions and that meet the other requirements of the provision. Section 8101(29) of the ESEA expressly provides that the term "institution of higher education" as referenced in the ESEA has the same meaning given that term in section 101(a) of the HEA except as otherwise provided in the ESEA. Given that the MHSP program is established under Title IV, Part F of the ESEA (the school safety national activities authority) and the authority does not "otherwise provide" a different IHE definition, the applicable definition of "institution of higher education" is "an educational institution in any State that is. . .a public or other nonprofit institution" and otherwise meets the requirements of section 101(a). We decline to reference specific credentialing entities given that credentialing is a State determination. The Department appreciates the commenter identifying potential inconsistencies between the definition of "eligible IHE" and the Joint Explanatory Statement for the FY 2022

Appropriations Act. To align the definition with congressional intent about the scope of available funds, we revised paragraph (d) of the definition to exclude school nurses. Also, we recognize there is variation in the education and training requirements for behavioral health aides and clinical psychologists. In order to meet the purpose of training personnel to provide school-based mental health services, we revised paragraph (d) to say that other school-based mental health fields of study may be included to the extent they result in a State credential to deliver school-based mental health services.

Changes: We revised paragraphs (a)-(d) of the definition of "eligible IHE" to align the definition with changes referenced previously about credentialing. We will also adopt the HEA Section 101 definition of IHE when publishing the notice inviting applications. We also revised paragraph (d) of the definition to exclude school nurses and to specify that other school-based mental health fields of study are included to the extent they prepare students for a State credential to deliver school-based mental health services.

Comment: Two commenters suggested additional indicators for demonstrating that an LEA meets the definition of "high-need LEA." One suggested adding indicators that the Department proposed for the SBMH program. The other commenter suggested specifying in the definition of "high-

need LEA" that there is a high underserved student-to provider-ratio.

Discussion: The Department declines the suggestion to add indicators from the SBMH program to the definition of "high-need LEA." We intentionally use a different indicator for this program because the focus of this program is on increasing the number of services providers for underserved students in high-poverty schools or small and rural schools. We also believe the current indicators of poverty, small and rural schools, and high student to provider ratios are sufficient to focus this program on underserved students without over-limiting eligibility.

Changes: None.

Comment: One commenter suggested adding an indicator about traumatic events or adverse childhood experiences to the definition of "high-need school."

Discussion: We do not believe adding these indicators is necessary. The current indicators are based on poverty in order to focus the program on underserved students.

Changes: None.

Comment: Two commenters suggested changes to the definition of "school-based mental health partnerships." One of the two commenters suggested clarifying that eligible IHEs include HBCUs, MSIs, and TCUs. The second commenter suggested including school leaders in the creation of the partnership.

Discussion: The Department agrees that calling out HBCUs, MSIs, and TCUs as IHE partners supports the Department's overarching goal of increasing the number of services providers from diverse backgrounds. The Department also agrees that engaging leaders at all levels of the project in the creation of the partnership will lead to a stronger partnership. However, rather than revise the definition of "school-based mental health partnership," we believe it is more effective to incorporate the leader role in the MOU, MOA, or letter of agreement.

Changes: We added a reference to HBCUs, MSIs, and TCUs in paragraph (b) of the definition of "school-based mental health partnerships". For clarity, we also cite, in the rule text, the specific authority for the definition of each entity. We also revised application requirement (d) to emphasize the engagement of leaders when developing the MOU, MOA, or letter of agreement.

FINAL PRIORITIES:

Priority 1-Expand Capacity of High-Need LEAs.

Projects that propose to expand the capacity of high-need LEAs (as defined in this notice) in partnership with eligible IHEs (as defined in this notice) to train school-based mental health services providers (as defined in this notice), with the goal of expanding the number of these professionals available to address the shortages of school-

based mental health services providers in high-need schools.

To meet this priority, the applicant must propose a school-based mental health partnership (as defined in this notice) to place the IHE's graduate students in school-based mental health services fields into high-need schools served by the participating high-need LEAs for the purpose of completing required field work, credit hours, internships, or related training necessary to complete their degree or obtain a credential as a school-based mental health services provider.

Priority 2-Increase the Number of Qualified School-Based Mental Health Services Providers in High-Need LEAs Who Are from Diverse Backgrounds or from Communities Served by the High-Need LEAs.

Projects that propose to increase the number of qualified school-based mental health services providers in high-need LEAs who are from diverse backgrounds (i.e., backgrounds that reflect the communities, identities, races, ethnicities, abilities, and cultures of the students in the high-need LEA, including underserved students) or who are from communities served by the high-need LEAs.²

Applicants must describe how their proposal to increase the number of school-based mental health services

² All strategies to increase the diversity of providers must comply with applicable Federal civil rights laws, including Title VI of the Civil Rights Act of 1964.

providers who are from diverse backgrounds or who are from the communities served by the high-need LEA will help increase access to mental health services for students within the high-need LEA and best meet the mental health needs of the diverse populations of students to be served. Priority 3-Promote Inclusive Practices.

Projects that propose to provide evidence-based (as defined in section 8101 of the ESEA) pedagogical practices in mental health services provider preparation programs or professional development programs that are inclusive with regard to race, ethnicity, culture, language, disability, and for students who identify as LGBTQI+, and that prepare school-based mental health services providers to create culturally and linguistically inclusive and identity-safe³ environments for students when providing services.

Applicants must describe how their proposal to provide evidence-based pedagogical practices in mental health services provider preparation programs or professional development programs will prepare school-based mental health services providers to provide inclusive practices and to create culturally and linguistically inclusive and identity-safe environments for students when providing services.

³ An identity-safe environment is a place where every student feels physically and emotionally safe. Perceptions of safety often differ across different groups of students, and each intervention and support measure should be designed to ensure the safety and belonging of all students.

Priority 4—Partnerships with HBCUs, TCUs, and other MSIs.

Applicants that propose to implement their projects by or in partnership with one or more of the following entities:

(1) Historically Black Colleges and Universities (as defined in 34 CFR 608.2).

(2) Tribal Colleges and Universities (as defined in section 316(b)(3) of the HEA).

(3) Minority-Serving Institutions (as defined in sections 316 through 320 of part A of title III, under part B of title III, or under title V of the HEA).

Types of Priorities:

When inviting applications for a competition using one or more priorities, we designate the type of each priority as absolute, competitive preference, or invitational through a notice in the *Federal Register*. The effect of each type of priority follows:

Absolute priority: Under an absolute priority, we consider only applications that meet the priority (34 CFR 75.105(c)(3)).

Competitive preference priority: Under a competitive preference priority, we give competitive preference to an application by (1) awarding additional points, depending on the extent to which the application meets the priority (34 CFR 75.105(c)(2)(i)) or (2) selecting an application that

meets the priority over an application of comparable merit that does not meet the priority (34 CFR 75.105(c)(2)(ii)).

Invitational priority: Under an invitational priority we are particularly interested in applications that meet the priority. However, we do not give an application that meets the priority a preference over other applications (34 CFR 75.105(c)(1)).

FINAL REQUIREMENTS:

The following are application requirements for this program. We may apply one or more of these requirements in any year in which the program is in effect.

Eligible Applicants:

Eligible applicants for this program are high-need LEAs, SEAs on behalf of one or more high-need LEAs, and IHEs. High-need LEA applicants and SEA applicants on behalf of one or more high-need LEAs must propose to work in partnership with an eligible institution of higher education (eligible IHE), which may include institutions that serve diverse learners such as an HBCU (as defined in 34 CFR 608.2), TCU (as defined in section 316(b)(3) of the HEA), or other MSI (as defined in sections 316 through 320 of part A of title III, under part B of title III, or under title V of the HEA). Eligible IHE applicants must propose to work in partnership with one or more high-need LEAs or an SEA.

Application Requirements:

(a) Identification of schools to be served by the proposed project.

Applicants must identify or describe how they will identify the high-need schools to be served in each high-need LEA that is part of the school-based mental health partnership.

(b) A description of the nature and magnitude of the problem.

Applicants must describe how the lack of school-based mental health services providers is specifically affecting students in the high-need schools to be served by project activities. Applicants must describe the nature of the problem for the LEA, based on, but not limited to, the most recent available ratios of school-based mental health services providers to students enrolled in the schools in each high-need LEA that is part of the school-based mental health partnership (in the aggregate and disaggregated by profession (e.g., school social workers, school psychologists, and school counselors)). The description may also include LEA and school-level demographic data, including chronic absenteeism and discipline data, school climate surveys, school violence/crime data, data related to suicide rates, and descriptions of barriers to hiring and retaining services providers in the LEA.

(c) A plan to enhance LEA capacity to provide mental health services to students.

Applicants must describe the specific activities they will conduct to expand and improve LEA capacity to provide

mental health services to students in high-need LEAs and ensure that students receive appropriate, evidence-based (as defined in section 8101 of the ESEA), and culturally and linguistically inclusive mental health services. To meet this requirement, the applicant must propose a school-based mental health partnership (as defined in this notice) established for the purpose of placing the IHE's graduate students in school-based mental health fields into high-need schools served by the participating high-need LEAs to complete required field work, credit hours, internships, or related training as applicable for the degree or credential program of each student. If the applicant intends to establish a program that directly benefits an individual graduate student, such as through a stipend or tuition credit, the applicant must describe its approach to implementing a service obligation for such graduate student as a school-based mental health services provider in a high-need LEA commensurate with the level of support the graduate student receives.

(d) A memorandum of understanding (MOU), a memorandum of agreement (MOA), or letter of agreement between the LEA or SEA, and the IHE.

Applicants must include with their application an MOU, MOA, or letter of agreement that is signed by the authorized representatives of the LEA or SEA, and the IHE. The MOU, MOA, or letter of agreement must provide details

regarding the roles and responsibilities of each entity in the partnership, and include a description of how the partnership will place graduate students into high-need schools served by the participating high-need LEAs to complete required field work, credit hours, internships, or related training necessary to complete their degree or obtain a credential as a school-based mental health services provider. Additionally, SEA and LEA applicants must describe in the MOU, MOA, or letter of agreement how leaders across all levels of the project will be engaged in the implementation and evaluation of the project. The MOU, MOA, or letter of agreement must also include the estimated number of mental health services providers that will be placed into employment in high-need schools and high-need LEAs on an annual basis.

(e) A plan for collaboration and coordination with related Federal, State, and local initiatives.

Applicants must propose a plan that describes one or more of the following:

(1) How they will collaborate with at least one national, State, or local professional organization (to include a regional professional organization, if appropriate), such as a school social worker association, school psychologist association, or school counselor association;

(2) The activities to be carried out in coordination with the national, State, or local mental health, public health, child welfare, and other community agencies, which may include school-based health centers, to achieve the plan goals and objectives of establishing a pipeline program to train and expand the capacity of school-based mental health services providers in high-need LEAs;

(3) How they will leverage other available Federal, State, and local resources to achieve project goals and objectives and sustain investments beyond the budget period. Applicants must identify these other available resources and describe how they will be used to promote success across programs; and

(4) How they will use the MHSP funds to expand and enhance existing efforts or put in place new measures to increase the number of qualified school-based mental health services providers to be employed by eligible schools and LEAs qualified to provide school-based mental health services.

Evidence of collaboration and coordination described in paragraphs (e)(1) and (2) must be provided through letters of support or MOAs/MOUs from State or local organizations or agencies, where applicable.

(f) A description of the process to identify students for mental health services.

Applicants must describe the specific process and activities they will use to ensure students in high-need LEAs who need school-based mental health services are properly identified, assessed, and provided the appropriate school-based mental health services by qualified personnel in consultation with educators, including school leaders, and parents and families, as appropriate. To meet this requirement, applicants must also describe how they will ensure that services are evidence-based and inclusive with regard to race, ethnicity, culture, language, disability, homelessness, and for students who identify as LGBTQI+, and are accessible to all. Further, applicants must describe how LEAs will engage parents and families for the purposes of raising awareness about the availability of services and connecting students to services.

FINAL DEFINITIONS:

The Department establishes definitions of "eligible institution of higher education," "high-need LEA," "high-need school," "school-based mental health partnership," and "students/children from low-income backgrounds," for use in this program. We may apply the definitions in any year in which this program is in effect.

Eligible institution of higher education means an institution of higher education that offers a program of study that leads to a master's degree or other graduate degree—

(a) In school psychology that prepares students in such program for a State credential as a school psychologist;

(b) In school counseling that prepares students in such program for a State credential in school counseling;

(c) In school social work that prepares students in such program for a State credential in school social work;

(d) In another school-based mental health field that prepares students in such program for a State credential to deliver school-based mental health services; or

(e) In any combination of study described in paragraphs (a) through (d).

High-need LEA means a local educational agency—

(a) (1) For which at least 20 percent of the children served by the agency are children from low-income backgrounds;

(2) That serves at least 10,000 children from low-income backgrounds;

(3) That meets the eligibility requirements for funding under the Small, Rural School Achievement (SRSA) program under section 5211(b) of the ESEA; or

(4) That meets the eligibility requirements for funding under the Rural and Low-Income School (RLIS) program under section 5221(b) of the ESEA; and

(b) For which there is a high student to qualified mental health services provider ratio as compared to other LEAs statewide or nationally.

High-need school means a school that, based on the most recent data available, meets at least one of the following:

(a) The school is in the highest quartile of all schools served by an LEA ranked in descending order by percentage of students from low-income backgrounds enrolled in such schools, as determined by the LEA based on one of the following measures of poverty:

(1) The percentage of students aged 5 through 17 in poverty counted in the most recent census data approved by the Secretary.

(2) The percentage of students eligible for a free or reduced-price school lunch under the Richard B. Russell National School Lunch Act based on the most recently available data.

(3) The percentage of students in families receiving assistance under the State program funded under part A of title IV of the Social Security Act.

(4) The percentage of students eligible to receive medical assistance under the Medicaid program.

(5) A composite of two or more of the measures described in paragraphs (a)(1) through (4).

(b) In the case of--

(1) An elementary school, the school serves students not less than 60 percent of whom are eligible for a free or reduced-price school lunch under the Richard B. Russell National School Lunch Act based on the most recently available data; or

(2) Any other school that is not an elementary school, the other school serves students not less than 45 percent of whom are eligible for a free or reduced-price school lunch under the Richard B. Russell National School Lunch Act based on the most recently available data.

School-based mental health partnership means the formal relationship, established for the purpose of training school-based mental health services providers for employment in schools and LEAs, between--

(a) One or more high-need LEAs or an SEA on behalf of one or more high-need LEAs; and

(b) One or more eligible IHEs, including HBCUs (as defined in 34 CFR 608.2), MSIs (as defined in sections 316 through 320 of part A of title III, under part B of title III, or under title V of the HEA), and TCUs (as defined in section 316(b)(3) of the HEA).

Students/children from low-income backgrounds means students whose families meet any of the poverty thresholds established in section 1113 of the ESEA for the relevant grade level.

This document does not preclude us from proposing additional priorities, requirements, definitions, or selection criteria, subject to meeting applicable rulemaking requirements.

Note: This document does not solicit applications. In any year in which we choose to use these priorities, requirements, and definitions, we invite applications through a notice in the *Federal Register*.

Executive Orders 12866 and 13563

Regulatory Impact Analysis

Under Executive Order 12866, it must be determined whether this regulatory action is "significant" and, therefore, subject to the requirements of the Executive order and subject to review by the Office of Management and Budget (OMB). Section 3(f) of Executive Order 12866 defines a "significant regulatory action" as an action likely to result in a rule that may--

- (1) Have an annual effect on the economy of \$100 million or more, or adversely affect a sector of the economy, productivity, competition, jobs, the environment, public health or safety, or State, local, or Tribal governments or communities in a material way (also referred to as an "economically significant" rule);

- (2) Create serious inconsistency or otherwise interfere with an action taken or planned by another agency;

(3) Materially alter the budgetary impacts of entitlement grants, user fees, or loan programs or the rights and obligations of recipients thereof; or

(4) Raise novel legal or policy issues arising out of legal mandates, the President's priorities, or the principles stated in the Executive order.

This final regulatory action will have an annual effect on the economy of more than \$100 million because approximately \$143 million is available under this program from FY 2022 appropriations actions, and \$100 million is available each year from FY 2023 to FY 2026. Therefore, this final action is "economically significant" and subject to review by OMB under section 3(f)(1) of Executive Order 12866. Notwithstanding this determination, we have assessed the potential costs and benefits, both quantitative and qualitative, of this final regulatory action and have determined that the benefits justify the costs.

We have also reviewed this final regulatory action under Executive Order 13563, which supplements and explicitly reaffirms the principles, structures, and definitions governing regulatory review established in Executive Order 12866. To the extent permitted by law, Executive Order 13563 requires that an agency—

(1) Propose or adopt regulations only upon a reasoned determination that their benefits justify their costs

(recognizing that some benefits and costs are difficult to quantify);

(2) Tailor its regulations to impose the least burden on society, consistent with obtaining regulatory objectives and taking into account—among other things and to the extent practicable—the costs of cumulative regulations;

(3) In choosing among alternative regulatory approaches, select those approaches that maximize net benefits (including potential economic, environmental, public health and safety, and other advantages; distributive impacts; and equity);

(4) To the extent feasible, specify performance objectives, rather than the behavior or manner of compliance a regulated entity must adopt; and

(5) Identify and assess available alternatives to direct regulation, including economic incentives—such as user fees or marketable permits—to encourage the desired behavior, or provide information that enables the public to make choices.

Executive Order 13563 also requires an agency “to use the best available techniques to quantify anticipated present and future benefits and costs as accurately as possible.” The Office of Information and Regulatory Affairs of OMB has emphasized that these techniques may include “identifying changing future compliance costs that

might result from technological innovation or anticipated behavioral changes.”

We are issuing these final priorities, requirements, and definitions only on a reasoned determination that their benefits would justify their costs. In choosing among alternative regulatory approaches, we selected those approaches that would maximize net benefits. Based on an analysis of anticipated costs and benefits, we believe that the final priorities, requirements, and definitions are consistent with the principles in Executive Order 13563.

We also have determined that this regulatory action does not unduly interfere with State, local, and Tribal governments in the exercise of their governmental functions. In this regulatory impact analysis (RIA) we discuss the need for regulatory action, the potential costs and benefits, net budget impacts, assumptions, limitations, and data sources, as well as regulatory alternatives we considered.

Costs and Benefits: The priorities, requirements, and definitions are necessary for the implementation of MHSP consistent with the requirements established by Congress in the Department of Education Appropriations Act, 2022, and the Explanatory Statement accompanying that Act. It is important to note that implementation of MHSP would almost exclusively confer benefits on the recipients of Federal funds subject to the final priorities, requirements, and

definitions, whose voluntary participation in MHSP would entail minimal costs except for those paid with Federal funds, and the Paperwork Reduction Act (PRA) section of this document discusses the burden estimates for preparing an application. This program was established under a statute with broad authority and only non-binding report language establishing program purpose, eligibility, or requirements; consequently, this rulemaking action is necessary to ensure program funds are used for their intended purpose. More specifically, the final priorities, requirements, and definitions would ensure that the Department may collect from applicants for MHSP funding the information necessary for competitive review of applications by peer reviewers, and to fund high-quality applications that will lead to the implementation of projects consistent with congressional intent. Absent this rulemaking action, there is no alternative means of meeting these objectives.

The specific benefits of establishing a menu of final priorities include ensuring that funds are used consistent with congressional intent and providing flexibility to the Department for supporting multiple strategies designed to address the shortage of mental health services providers in schools. The first strategy, embedded in Final Priority 1, is to focus grant activities on the expansion of school-based mental health services providers in high-need LEAs.

The definition of "high-need LEA," incorporated into these priorities, provides flexibility for an LEA to show need in various ways, including through poverty rates or size. Although the total number of LEAs is large (over 13,000 in school year 2018-19), the available funding will only support a limited number of multiyear projects. Absent the targeting of MHSP funds to high-need LEAs, the program may allocate scarce Federal resources to high-capacity LEAs that already meet the mental health needs of their students. Moreover, ensuring that funds are targeted to high-need LEAs was a requirement of the FY 2019 MHSP competition, and Congress directed the Department, through the Explanatory Statement accompanying the Department of Education Appropriations Act, 2022, to incorporate the same requirement into the FY 2022 MHSP competition.

Final Priority 2 supports a strategy for expanding the workforce of school-based mental health services providers. Currently, the psychology and school counselor workforces are significantly less diverse than the student population. Increasing the number of qualified school-based mental health services providers who are from diverse backgrounds and from communities served by the high-need LEAs, and who can provide culturally and linguistically appropriate services, would expand not only the numbers of these providers but also provide better access to and improve the quality of mental health services available to students.

This priority has the additional benefit of promoting equity for students, in keeping with the Administration's agenda and the Department's mission to support equity and excellence.

Final Priority 3 seeks to increase the number of school-based mental health services providers who can provide services that are culturally and linguistically inclusive and who can provide identity-safe environments for students. Given the diversity of the student population, every school-based mental health services provider should be able to implement inclusive practices and be able to provide services to all students. This priority also supports the Administration's equity agenda and the Department's mission to support equity and excellence.

Final Priority 4 complements Final Priority 2 by recognizing the role that MSIs, including HBCUs and TCUs, can play in meeting the diversity goals of the MHSP program. Such institutions are uniquely positioned to increase the number of qualified school-based mental health services providers who are from diverse backgrounds and from communities served by the high-need LEAs, and who can provide culturally and linguistically appropriate services to underserved students in high-need schools and LEAs. Finally, Priority 4 can create an incentive for the

inclusion of such institutions in the innovative partnerships and pathways supported by the MHSP program.

The Department believes that this final regulatory action would not impose significant costs on eligible entities, whose participation in our programs is voluntary, and whose costs can generally be covered with grant funds. As a result, the final priorities, requirements, and definitions would not impose a significant burden, except when an entity voluntarily elects to apply for a grant. Moreover, the Department believes the benefits associated with the grant application would outweigh any associated costs.

The Paperwork Reduction Act (PRA) section of this RIA discusses the burden estimates for preparing an application. The potential benefits of receiving Federal funds under this program to expand the pool of, and hire, school-based mental health services providers outweigh the application costs detailed in the PRA section. The costs of implementing the requirements established in this notice generally can be paid for with grant funds.

Regulatory Alternatives Considered

The Department believes that the final priorities, requirements, and definitions in this notice are needed to administer the program effectively. The priorities will enable the Department to administer a competitive grant program consistent with the intent of Congress as expressed

in the Explanatory Statement accompanying the Department of Education Appropriations Act, 2022 (Pub. L. No. 117-103), which provided funding for the program in fiscal year 2022, and the Bipartisan Safer Communities Act (Pub. L. No. 117-159), which provided additional funding for fiscal years 2022 through 2026.

Accounting Statement

As required by OMB Circular A-4 (available at <https://www.whitehouse.gov/omb/information-for-agencies/circulars/>), in the following table we have prepared an accounting statement showing the classification of the expenditures associated with the provisions of this regulatory action. This table provides our best estimate of the changes in annual monetized transfers as a result of this regulatory action.

Expenditures are classified as transfers from the Federal Government to LEAs and IHEs.

ACCOUNTING STATEMENT CLASSIFICATION OF ESTIMATED EXPENDITURES in millions)		
Category	Transfers	
	3 percent	7 percent
Annualized monetized transfers	\$108.6	\$108.6
From whom to whom?	From the Federal government to LEAs and IHEs	

Regulatory Flexibility Act Certification

The Secretary certifies that this final regulatory action does not have a significant economic impact on a substantial number of small entities. The U.S. Small Business Administration Size Standards define proprietary institutions as small businesses if they are independently owned and operated, are not dominant in their field of operation, and have total annual revenue below \$7,000,000. Nonprofit institutions are defined as small entities if they are independently owned and operated and not dominant in their field of operation. Public institutions are defined as small organizations if they are operated by a government overseeing a population below 50,000.

The small entities that this final regulatory action would affect are school districts and IHEs applying for and receiving funds under this program. The Secretary believes that the costs imposed on applicants by the final priorities, requirements, and definitions, would be limited to paperwork burden related to preparing an application and that the benefits of implementing these proposals would outweigh any costs incurred by applicants.

Participation in this program is voluntary. For this reason, the final priorities, requirements, and definitions would impose no burden on small entities in general. Eligible applicants would determine whether to apply for funds and have the opportunity to weigh the requirements for preparing applications, and any associated costs,

against the likelihood of receiving funding and the requirements for implementing projects under the program. Eligible applicants most likely would apply only if they determine that the likely benefits exceed the costs of preparing an application. The likely benefits include the potential receipt of a grant as well as other benefits that may accrue to an entity through its development of an application, such as the use of that application to seek funding from other sources to address a shortage in mental health providers.

Paperwork Reduction Act

The Paperwork Reduction Act of 1995 does not require you to respond to a collection of information unless it displays a valid OMB control number. We display the valid OMB control number assigned to the collection of information in this notice of final priorities, regulations, and definitions at the end of the affected sections of the requirements.

The final priorities, requirements, and definitions contain information collection requirements that are approved by OMB. The final priorities, requirements, and definitions do not affect the currently approved data collection. An FY 2022 competition would require applicants to complete and submit an application for Federal assistance using Department standard application forms. We estimate that for the FY 2022 MHSP competition

and later competitions, each applicant will spend approximately 40 hours of staff time to address these priorities, requirements, and definitions. We estimate that we will receive approximately 500 applications for these funds. The total number of burden hours for all applicants to review instructions, search existing data sources, gather and maintain the data needed, and complete and review the application is estimated to be 20,000 hours.

Intergovernmental Review: This program is subject to Executive Order 12372 and the regulations in 34 CFR part 79. One of the objectives of the Executive order is to foster an intergovernmental partnership and a strengthened federalism. The Executive order relies on processes developed by State and local governments for coordination and review of Federal financial assistance.

This document provides early notification of our specific plans and actions for this program.

Accessible Format: On request to the program contact person listed under FOR FURTHER INFORMATION CONTACT, individuals with disabilities can obtain this document in an accessible format. The Department will provide the requestor with an accessible format that may include Rich Text Format (RTF) or text format (txt), a thumb drive, an MP3 file, braille, large print, audiotape, or compact disc, or other accessible format.

Electronic Access to This Document: The official version of this document is the document published in the *Federal Register*. You may access the official edition of the *Federal Register* and the Code of Federal Regulations at www.govinfo.gov. At this site you can view this document, as well as all other documents of this Department published in the *Federal Register*, in text or Portable Document Format (PDF). To use PDF you must have Adobe Acrobat Reader, which is available free at the site.

You may also access documents of the Department published in the *Federal Register* by using the article search feature at www.federalregister.gov. Specifically, through the advanced search feature at this site, you can limit your search to documents published by the Department.

James F. Lane,
Senior Advisor, Office of the
Secretary,
Delegated the Authority to Perform
the Functions and Duties of the
Assistant Secretary for the Office
Elementary and Secondary
Education.